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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CURTIS AND CHARLOTTE WESTLEY,)	No. C11-02448-EMC
Individually and on Behalf of All Others)	and related consolidated action
Similarly Situated,)	(Lead Case No. C11-3176-EMC)
)	(Derivative Action)

Plaintiffs,

vs.

OCLARO, INC., et al.,

Defendants.

In re OCLARO, INC. DERIVATIVE
LITIGATION

Lead Case No. C11-3176-EMC
(Derivative Action)

This Document Relates To:

Westley v. Oclaro, Inc., et al.,
C11-02448-EMC.

STIPULATION AND [PROPOSED] ORDER SETTING CASE MANAGEMENT
CONFERENCE, EXTENDING DISCOVERY STAY AND
ADJOURNING HEARING ON MOTION FOR SUMMARY JUDGMENT

1 WHEREAS, on May 19, 2011, plaintiffs Curtis and Charlotte Westley filed a complaint
2 against defendants Oclaro, Inc., Alain Couder, Jerry Turin and James Haynes (Dkt. No. 1);

3 WHEREAS, on September 12, 2011, this Court issued an Order Granting Connecticut
4 Laborers' Pension Fund's Motion for Appointment as Lead Plaintiff and Approval of Selection of
5 Counsel (Dkt. No. 37);

6 WHEREAS, on April 26, 2012, lead plaintiff filed a Second Amended Complaint for
7 Violations of the Federal Securities Laws ("SAC") (Dkt. No. 62);

8 WHEREAS, on September 21, 2012, this Court issued an Order Granting Defendants'
9 Motion to Dismiss the Second Amended Complaint (Dkt. No. 79);

10 WHEREAS, on January 10, 2013, this Court issued an Order Granting in Part and Denying
11 in Part Plaintiffs' Motion for Leave for Reconsideration finding that the SAC had adequately alleged
12 claims arising from alleged false statements in May and June 2010 (Dkt. No. 107);

13 WHEREAS, on January 30, 2013, this Court entered a minute order, that *inter alia* limited
14 discovery to the issue of scienter with respect to certain statements and set a discovery cutoff, a
15 deadline for the filing of the Third Amended Complaint for Violation of the Federal Securities Laws
16 ("TAC"), briefing schedules in connection with defendants' motion to dismiss the TAC and
17 defendants' motion for summary judgment with respect to scienter for the May and June statements,
18 and an oral argument date for the motion for summary judgment (Dkt. No. 111);

19 WHEREAS, on March 1, 2013, lead plaintiff filed a TAC (Dkt. No. 121);

20 WHEREAS, on April 1, 2013, defendants filed a motion to dismiss the TAC (Dkt. No. 130);

21 WHEREAS, on April 3, 2013, this Court ordered, *inter alia*, that defendants produce certain
22 documents by April 24, 2013, and that they make a witness or witnesses available for deposition to
23 testify on topics defined in lead plaintiff's Rule 30(b)(6) deposition notice (Dkt. No. 138);

24 WHEREAS, on May 2, 2013, the Court approved the parties' joint stipulation to stay all
25 proceedings and deadlines in this action, with the exception of proceedings related to the motion to
26 dismiss the TAC, until such time as the Court rendered a decision on defendants' motion to dismiss
27 the TAC and modified the Court's January 30, 2013 minute order to provide the following: (i) the
28 discovery cutoff shall be five weeks after the Court rules on defendants' motion to dismiss the TAC;

(ii) defendants' summary judgment motion shall be filed no later than 14 days after the discovery cutoff; and (iii) a hearing on the motion shall be set for the first Thursday on which Judge Chen is available, at 1:30 p.m., which is at least thirty-five days after the motion for summary judgment is filed (Dkt. No. 153);

WHEREAS, on May 30, 2013, the Court issued an order granting defendants' motion to dismiss the TAC with prejudice as to the scienter allegations for alleged misrepresentations in July and August 2010 (Dkt. No. 157);

WHEREAS, the parties have met and conferred to determine the progression of ongoing discovery, the scope of discovery going forward in light of the May 30, 2013 Order, class certification and prospects for a non-litigated resolution of this action;

WHEREAS, the parties have agreed, subject to this Court's approval, that the Case Management Conference ("CMC"), currently set for July 18, 2013 at 1:30 p.m., shall remain on calendar, or shall be rescheduled for another date thereafter that is convenient to the Court, to (i) address a timeline for resolution of all outstanding discovery disputes; (ii) schedule deadlines for the remainder of the case, including but not limited to, a briefing schedule for defendants' motion for summary judgment on the Court-ordered issue of scienter and a deadline for plaintiffs' motion for class certification; and (iii) address certain other outstanding issues between the parties.

WHEREAS, the parties have agreed, subject to this Court's approval, that the hearing on defendants' motion for summary judgment on the Court-ordered issue of scienter, currently set for July 18, 2013 at 1:30 p.m., shall be adjourned to a date and time agreed upon by the parties or ordered by the Court;

WHEREAS, the parties have agreed, subject to this Court's approval, that the Joint CMC Statement shall be due one week prior to the date of the CMC;

WHEREAS, the parties have agreed, subject to this Court's approval, to continue the stay of all proceedings and deadlines in this action, including discovery deadlines, until after the CMC is held, and a schedule for the remainder of the action is in place; and

WHEREAS, the parties enter this stipulation, not for the purposes of delay, but to efficiently manage this case going forward;

1 NOW THEREFORE, the undersigned parties, by and through their counsel of record,
2 stipulate as follows:

3 1. The CMC, currently set for July 18, 2013 at 1:30 p.m., shall remain on calendar, or
4 shall be rescheduled for another date thereafter that is convenient for the Court, to (i) address a
5 timeline for all outstanding discovery disputes; (ii) schedule deadlines for the remainder of the case,
6 including but not limited to a briefing schedule for defendants' motion for summary judgment on the
7 Court-ordered issue of scienter and a deadline for plaintiffs' motion for class certification; and (iii)
8 address certain other outstanding issues between the parties.

9 2. The hearing on defendants' motion for summary judgment on the Court-ordered issue
10 of scienter, currently set for July 18, 2013 at 1:30 p.m., shall be adjourned to a date and time agreed
11 upon by the parties or ordered by the Court.

12 3. The Joint CMC Statement shall be due one week prior to the date of the CMC.

13 4. All proceedings and deadlines, including discovery deadlines, in this action are stayed
14 until after the CMC, and a schedule for the remainder of the action is in place.

15 DATED: June 14, 2013

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Attorneys for Defendants

Certificate Pursuant to Local Rule 5-1(i)(3)

I, Shawn A. Williams, am the ECF User whose identification and password are being used to file the STIPULATION AND [PROPOSED] ORDER SETTING CASE MANAGEMENT CONFERENCE, EXTENDING DISCOVERY STAY AND ADJOURNING HEARING ON MOTION FOR SUMMARY JUDGMENT. In compliance with Local Rule 5-1(i)(3), I hereby attest that Gidon M. Caine has concurred in this filing.

Dated: June 14, 2013

s/ Shawn A. Williams
SHAWN A. WILLIAMS

* * *

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____
THE HONORABLE EDWARD M. CHEN
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2013, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 14, 2013.

s/ Shawn A. Williams

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Mailing Information for a Case 3:11-cv-02448-EMC

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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